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M E M O R A N D U M

October 8, 1985

TO: Senator
FROM: ADC
RE: Javits Motion on Berman Vote

Livy said he spoke with you briefly at the Liechtenstein dinner.

He told me today that he cannot recall exactly what it is you are referring to but I will flesh out here what he said in the hopes it will ring a bell with you.

Javits made a motion "to proceed to consider the nomination of Berman".

Javits did not know when he made this motion, however, that it would not pass. He did not know that Livy had 5 proxies in hand. Nelson and Mondale took walks; Williams voted with you and it ended up a surprise tie vote - and a defeat for Berman.

Livy said it was a nice gesture on Javits' part to word the motion this way - because it gave the appearance that the vote was on proceeding to consider rather than an up or down vote on Berman (which in fact it was).

His phrasing simply allowed those who cared to be able to say that they voted against proceeding - not against Berman.

I am attaching the actual minutes from that Committee meeting on September 29, 1976 - for your information. Also the vote tally.

W-1^v